

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

NO PROTEST RECEIVED  
Release copies to District  
Date 10/14/88  
Surname

SEP 18 1988

Dear Applicant:

We have received and considered your application for exemption under section 501(c)(3) of the Internal Revenue Code. We are treating your earlier application for exemption under section 501(c)(10) as withdrawn.

The information submitted indicates that you are a nonprofit corporation created on [REDACTED]. Your stated purposes are the establishment of grants for education, promotion of educational standards, and the encouragement of academic excellence and specialized training. You are a membership organization consisting of the members of [REDACTED].

The information submitted further indicates that you will be supported through a large grant from the [REDACTED]. The income and principal from this endowment fund will be used to fund scholarships for promising students who are sons, daughters, step-children, and grandchildren of members of the [REDACTED]. You have indicated on your application that you will be a private foundation as described in section 509 of the Code.

Section 501(c)(3) of the Code exempts from federal income tax corporations organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations indicates that to be considered operating exclusively for one or more exempt purposes an organization must engage primarily in activities which accomplish those purposes. It is not so operated if more than an insubstantial part of its activities is not in furtherance of such purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides further that to meet the operational test, an organization must be engaged in activities furthering "public" rather than private interests. It must not be operated for the benefit of designated individuals or the persons who created it.

"This ruling is applicable to the taxpayer named herein. It must not be relied on, used, or cited as a precedent by Internal Revenue Service personnel in the disposition of other cases."

It is well established in the law of charities that scholarships are a charitable endeavor if they are granted on the basis of need or merit and are not subordinate to private purposes. The group of persons who are eligible for grants must be selected on the basis of criteria reasonably related to the purposes of the grant. In addition, the class of eligibles must be sufficiently broad to ensure that the giving of grants to those eligible would be in furtherance of charitable purposes.

Your awarding of scholarships does not seem to be based on either need or merit. Rather, the eligibility for the award is based on the potential grantees family relationship with a member of your Lodge. Funding scholarships for the children of members of your Lodge serves private purposes rather than public purposes. Because you are operated primarily for the benefit of your members, we further conclude that more than an insubstantial part of your activities is in furtherance of non-exempt purposes.

Based on these facts, we conclude that you do not qualify for exemption under section 501(c)(3) of the Code. Accordingly, you must file tax returns on Form 1120. Contributions to your organization are not deductible under section 170 of the Code.

In addition, section 508(a)(2) of the Code provides that an organization organized after October 9, 1969, shall not be treated as an organization described in section 501(c)(3) for any period before giving notice that it is applying for recognition of exempt status, if such notice is given after the time prescribed by regulation.

Section 1.508-1(a)(2)(i) of the Income Tax Regulations provides that an organization seeking exemption under section 501(c)(3) of the Code must file the notice described in section 508(a) within 15 months from the end of the month in which the organization was organized. Such notice is filed by submitting a properly completed and executed Form 1023, Application for Recognition of Exemption, with the key District Director.

Our records indicate that you filed your notice on [REDACTED], which is more than 15 months from the end of the month that you were organized. Therefore, the provisions of section 508(a)(2) of the Code are applicable to you. You have not requested relief from the application of section 508(a)(2) of the Code, nor do you fall within any of the exceptions to that provision. Thus, your exempt status under section 501(c)(3) of the Code, had you been able to establish such status, would have been effective only from the date your Form 1023 was submitted rather than from the date of your inception.

[REDACTED]

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director in Brooklyn, , New York. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action in accordance with Code Section 6104(c)

When sending additional letters with regard to this case, you will expedite their receipt by using the following symbols: [REDACTED]

Sincerely yours,

[REDACTED]  
Chief, Exempt Organizations  
Rulings Branch 2

cc: [REDACTED]

cc: [REDACTED]

cc: State Officials

NO PROTEST REQUIRED  
Release copies to District

Date 3/6/87

Surname [REDACTED]

RECEIVED  
EP-EO DIV.

APR 24 1987

DIST. DIR. OF INT. REL.  
BROOKLYN, N. Y. 11201  
EP-EO  
Tech Section

1 2 JAN 1987

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(10) of the Internal Revenue Code.

The information submitted indicates that you are a nonprofit corporation formed on [REDACTED]. Your stated purposes are the establishment of trusts for education, promotion of educational standards, and the encouragement of academic excellence and specialized training.

You are a membership organization consisting of members of [REDACTED]. All members of the lodge are called [REDACTED] except for those who are still in the beginner or initiation process.

Your sole activity will be providing scholarship grants limited to children or grandchildren of [REDACTED].

Section 501(c)(10) of the Code provides for the exemption from federal income tax of domestic fraternal societies, orders, or associations operating under the lodge system, the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and which do not provide for the payment of life, sick, accident, or other benefits.

Section 1.501(c)(10)-1 of the Income Tax Regulations provides that an organization will qualify for exemption under section 501(c)(10) of the Code if it is a domestic fraternal beneficiary society, order, or association, described in section 501(c)(5) and the regulations thereunder, except that it does not provide for the payment of life, sick, accident, or other benefits to its members, and devotes its net earnings exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes.

Section 501(c)(8) of the Code provides for the exemption from federal income tax of fraternal beneficiary societies, orders, or associations that operate under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and that provide for the payment of life, sick, accident, or other benefits to the members of such societies or their dependents.

Section 1.501(c)(6)-1 of the regulations provides that a fraternal beneficiary society is exempt from tax only if operated under the "lodge system" or for the exclusive benefit of the members so operating. "Operating under the lodge system" means carrying on its activities under a form or organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters or the like.

The reference in section 1.501(c)(10)-1(a) of the regulations to the description of fraternal beneficiary societies, found in section 501(c)(8) of the Code and the regulations thereunder, is directed at the fraternal and lodge system characteristics which organizations described in sections 501(c)(8) and 501(c)(10) have in common. The reference does not incorporate the subcategory of organizations which operate "for the exclusive benefit of the members of a fraternity itself operating under the lodge system" in its definition of a domestic fraternal organization under section 501(c)(10). Since that subcategory was added to a predecessor of section 501(c)(8) to cover the separately organized insurance branches of the fraternal beneficiary societies, it does not apply to section 501(c)(10) organizations which cannot provide insurance or other benefits to their members.

Rev. Rul. 55-495, 1955-2 C.B. 259, holds that an association that does not operate under a lodge system is not an exempt fraternal beneficiary association.

Rev. Rul. 81-117, 1981-1 C.B. 346, holds that an organization that does not conduct any fraternal activities or operate under the lodge system, but does operate exclusively for the benefit of members of certain related domestic fraternal societies operating under the lodge system, does not qualify for exemption under section 501(c)(10) of the Code.

The information you have provided shows that you do not conduct any fraternal activities nor do you operate under the lodge system. Therefore, you do not meet the requirements of an exempt fraternal beneficiary society. Further, by providing scholarships to children and grandchildren of members, you are providing benefits to members in contravention of section 501(c)(10) of the Code.

You are analogous to the organization described in Rev. Rul. 81-117 held not to qualify for exemption under section 501(c)(10) of the Code. See also Rev. Rul. 55-495.

Accordingly, you do not qualify for exemption under section 501(c)(10) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

[REDACTED]

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director in Brooklyn, New York. Thereafter, any questions about your federal income tax status should be addressed to that office.

When sending additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols as part of our address: [REDACTED]

Sincerely yours,

(signed) [REDACTED]

[REDACTED]  
Chief, Exempt Organizations  
Reliance Branch

cc: [REDACTED]

cc: [REDACTED]